

REMARKS

Claim 1 has been amended. Claims 2-7 depend from claim 1. Reexamination and reconsideration are respectfully requested.

In the Office Action, independent claim 1, along with dependent claims 2-3, 5 and 7 were rejected as being anticipated by SEILER (US 4,947,500). Applicant respectfully traverses this rejection in view of the following remarks.

Initially, Applicant points out that independent claim 1 is directed toward a mattress system, that includes a mattress, a mattress protector, and a control system. In contrast, SEILER is directed merely to the mattress itself, which is coupled with a control device. As such, the Examiner's alleged correspondence of components between SEILER and the present invention is not consistent with the ordinary meaning of Applicant's claimed components to one of skill in the art as will be understood from the following.

Applicant's independent claim 1 includes a mattress having a top surface and a bottom surface. As amended, a cavity arranged in the mattress is open at the top surface of the mattress. As shown, for example, in the preferred embodiments of Figures 3 and 4a-4b, the cavity 17 is open at the top surface of the mattress 14.

Moreover, Applicant's claim includes a mattress protector that covers the top surface of the mattress. The protector includes a first portion that extends into the cavity and a second portion that extends over an expandable cushion

arranged in the cavity. Thus, Applicant's system includes a mattress and a mattress protector, which are separate components.

In contrast, SEILER discloses a mattress formed of various parts, including a base layer 1, an elastic frame layer 2, 3, and a cover layer 20. As is clear from SEILER, these components form the mattress itself, not a mattress and a mattress protector. Indeed, SEILER discloses that these components are mutually glued together, thus forming the mattress (col. 3, lines 11-15 and 46-48).

Since SEILER's components form the mattress itself, and because the cover layer component 20 extends over the entire upper surface, the so-called "core" in SEILER that allegedly corresponds to Applicant's claimed cavity is not open at the upper surface as is required by Applicant's independent claim 1.

In view of the above, Applicant's amended claim 1 is not anticipated by SEILER. One skilled in the art would not consider SEILER's cover layer 20 a "mattress protector" as claimed in the present invention. Rather, it is simply part of the mattress itself.

Stated more generally, Applicant's invention is directed toward a mattress system that allows for a bed pan to be raised and lowered into a cavity formed in the mattress. To do so, the cavity must be open at the upper surface of the mattress. In contrast, SEILER is directed toward the cycling of pressure into air cushions arranged within a core of the mattress so as to cause movement of a patient arranged on the cover layer 20 of the mattress. The present invention

and SEILER are directed toward two completely different objectives, and as such the Examiner's equating of SEILER's components with those recited in Applicant's amended claim 1 imparts an improper interpretation to Applicant's claim language. One skilled in this art would not consider the cover layer 20 of SEILER a mattress protector. Rather, one skilled in the art would consider it as part of the mattress 20, just as is described in SEILER as forming a unitary whole mattress (col. 3, line 48).

In view of the above, Applicant submits claim 1 is patentable over SEILER. Claims 2-7 depend from claim 1 and are also submitted to be patentable.


If there are any questions regarding this amendment or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

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If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323 (Docket #010628.50474C3).

Respectfully submitted,

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